

K. A. F-A. asks the Utah Labor Commission to review Administrative Law Judge Marlowe's dismissal of Ms. F-A.' claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Annotated).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated §63-46b-12 and §34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

On April 17, 2003, Ms. F-A. filed an application to compel Vans Triple Crown ("Vans" hereafter) to pay permanent total disability compensation for injuries Ms. F-A. allegedly suffered while working for Vans on March 1, 2001.

Judge Marlowe held an evidentiary hearing in this matter on March 31, 2004, and then referred the medical aspects of Ms. F-A.' claim to an impartial medical panel. The panel submitted its report on January 5, 2006. On April 25, 2006, Judge Marlow issued her decision adopting the report and, on that basis, denying Ms. F-A.' claim.

In requesting review of Judge Marlowe's decision, Ms. F-A. argues that: 1) Judge Marlowe's decision lacks sufficient explanation; and 2) Ms. F-A.' injury has been misclassified by the panel and Judge Marlowe.

FINDINGS OF FACT

The Commission affirms and adopts Judge Marlowe's findings of fact. In particular, the Commission concurs with Judge Marlowe's reliance on the medical panel's opinions that Ms. F-A.: 1) suffered a coccygeal fracture in the industrial accident; 2) suffers from residual coccydynia or post-coccygectomy pain with the only permanent restriction being a sitting limitation of 30 minutes; and 3) she has a 5% permanent partial impairment rating related to the industrial accident.

DISCUSSION AND CONCLUSION OF LAW

Ms. F-A. contends that Judge Marlowe failed to explain how she arrived at a 5% total impairment rating. While the explanation contained in Judge Marlowe's decision is somewhat sketchy, it is apparent from the record that Judge Marlowe relied on the medical panel's opinion in arriving at that impairment rating. The Commission has reviewed all of the evidence on this issue and agrees with Judge Marlowe's determination that the medical panel's opinion is persuasive. The Commission therefore concurs with Judge Marlowe's finding that Ms. F-A. suffered a 5% whole person impairment from her accident at Vans.

As to Ms. F-A.' argument that the medical panel applied incorrect standards in assessing the nature and extent of her injury, the Commission notes that the panel was well aware of the nature of Ms. F-A.' medical problems and used appropriate methodology in assessing the resulting impairment.

ORDER

The Commission affirms Judge Marlowe's decision and denies Ms. F-A.' motion for review.
It is so ordered.

Dated this 29th day of June, 2006.

R. Lee Ellertson
Utah Labor Commissioner